

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-326-C - ORDER NO. 2010-565
AUGUST 19, 2010

IN RE: State Universal Service Support of Basic)	ORDER DENYING
Local Service Included in a Bundled Service)	PETITION FOR
Offering or Contract Offering)	REHEARING AND
)	RECONSIDERATION

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Petition for Rehearing and Reconsideration of Order No. 2010-337 (“the Petition”) submitted by the South Carolina Cable Television Association and tw telecom (“the Petitioners”). In general, the Petition contains few, if any, new arguments that have not already been presented to and ruled upon by this Commission in Order No. 2010-337. Accordingly, because of the reasoning discussed below, we deny the Petition.

First, we note that the Petition is largely based on a concept that this Commission specifically rejected in Order No. 2010-337, which is that continuing State Universal Service Fund (“State USF”) support for basic local service included in bundles and contracts will expand the State USF support to deregulated services. As numerous witnesses pointed out at the hearing in this matter, the State USF was specifically designed by the Commission to fund only basic local exchange service, and that is all it supports, whether that service is offered on a stand-alone basis, or whether it is part of a contract or bundled service. Tr. at 29, 97-98, 111-112. The definition of services that

can be supported by the South Carolina Universal Service Fund (“SC USF” or “State USF”) was not expanded in Order No. 2010-337. Accordingly, there is no valid issue or conflict with S.C. Code Ann. Section 58-9-280 (E) (Supp. 2009) as asserted by the Petitioners.

Second, since there was no expansion of the definition of services that can be supported by the SC USF by Order No. 2010-337, there is no conflict with S.C. Code Ann. Section 58-9-280 (E) (8) (Supp. 2009), which sets out the requirement for the expansion of services that can be supported by the SC USF. Third, since the SC USF still supports only basic local exchange service, there is no conflict with the “maximum amount” terminology found in S.C. Code Ann. Section 58-9-280 (E) (4) and (5) (Supp. 2009).

Fourth, although we agree that the plain language of S.C. Code Ann. Section 58-9-285 (B) (Supp. 2009) provides that the Commission has no jurisdiction over what rates can be charged for bundled or contract offerings, S.C. Code Ann. Section 58-9-285 (C) (Supp. 2009) provides in part that “nothing in this section affects the Commission’s jurisdiction over distributions from the USF pursuant to the USF statute, S.C. Code Ann. Section 58-9-280 (E).” Further, as has been stated, Order No. 2010-337 does not attempt to set rates for bundled or contract offerings, but only declares that basic local exchange service will be supported by the SC USF, whether said service is on a stand-alone basis or is part of a bundled or contract service. Additional support for this proposition comes from S.C. Code Ann. Section 58-9-576 (C) (11) (Supp. 2009), which states that the

General Assembly has not determined or suggested that only stand-alone basic residential lines should be entitled to support from the State USF.

Fifth, the Petitioners allege that Order No. 2010-337 conflicts with controlling definitional statutory provisions which differentiate bundled offerings from “basic local exchange service.” See S.C. Code Ann. Section 58-9-285 (A) (1) (a) (i). The Petitioners again state that Order No. 2010-337 allows USF subsidies to support bundles and contract offerings. Again, the Order only allows basic local exchange service to be supported by the USF, whether said service is stand-alone or in bundles or contracts. We discern no error.

Sixth, Petitioners allege that this Commission failed to properly analyze the evidence presented in the proceeding, with the Petitioners quoting testimony about market forces dictating the prices of deregulated bundled and contract service offerings. The Petitioners allege that USF support is inappropriate for such competition-driven services. A review of the evidence, however, reveals that witnesses for CenturyLink, Windstream, the South Carolina Telephone Coalition (“SCTC”), and the South Carolina Office of Regulatory Staff (“ORS”) all testified that it is in the public interest to continue providing State USF support for basic local exchange telephone service when it is provided in a bundled or contract service offering. See Tr. at 18-19, 107-108, 113, 114, 173-176, 274, 295, 296-297, and 350-351. The public interest in ensuring that all South Carolina citizens have access to affordable basic local exchange telephone service remains the same, regardless of whether customers choose to receive only basic local exchange telephone service or to receive that same service along with other services, and

regardless of whether they choose to purchase services pursuant to a tariff or a contract. See e.g. Tr. at 297. The evidence clearly pointed to this outcome. No improper analysis of the evidence occurred in Order No. 2010-337.

Seventh, the South Carolina Cable Television Association and tw telecom attempt to differentiate basic local exchange service from access lines included in bundles and contract offerings by noting that Carriers of Last Resort (“COLRs”) are statutorily required to provide basic local exchange service to all residential and single-line business customers within a defined service area, whereas no such requirement exists to provide bundles and contract offerings. Again, however, the Petitioners essentially argue that the State USF is supporting whole bundles and contract offerings, not just the access lines within those bundles and contract offerings. But as has been stated, only the basic local exchange service is being supported by the SC USF, not the bundles and contract offerings as a whole. Whether the COLRs are required or not required to offer the service or services within their services territories is irrelevant under these circumstances. This exception by the Petitioners is likewise unavailing.

Eighth, the Petitioners allege error by stating that Order No. 2010-337 finds that “failure to provide USF subsidies for bundles and contract offerings would make the SC USF procedures inconsistent with the Federal USF procedures.” The Petition then goes on to state that the Federal Communications Commission (“FCC”) has not addressed the question of whether deregulated bundles should receive Federal USF support. Petition at 6. In fact, the Petition misquoted Order No. 2010-337, which actually states that “Continuing to make State USF support available for basic local service when it is

included in bundles and contracts is consistent with federal law, policy, and procedures.” Order at 26. The Order goes on to state that “The Federal USF does not exclude high-cost funding for basic local service that is included in bundles and contracts.” See Tr. at 29, 172. Id. The purpose of quoting the FCC Order was to show that that agency has refused to carve out or deny Federal high cost USF support to carriers offering advanced services using the same facilities. There was no attempt by this Commission to state that Federal high cost support has been offered to an expanded list of services, as stated in the Petition. We agree that the FCC’s definition of “core” services to be supported by the Federal USF is somewhat similar to S.C. Code Ann. Section 58-9-10 (9)’s definition of “basic local exchange service,” which, of course, is supported by the State USF. This exception is without merit.

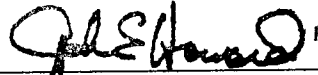
Because of the reasoning stated above, the Petition for Rehearing and Reconsideration of Order No. 2010-337 must be, and hereby is, denied. Further, we reaffirm all Findings of Fact, Conclusions of Law, and reasoning as they appear in Order No. 2010-337.

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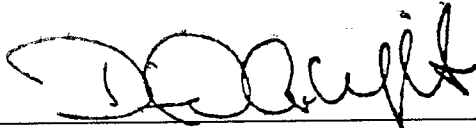
This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice Chairman

(SEAL)